UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 97-2374

GEROD STUKES,

Plaintiff - Appellant,

versus

AETNA INSULATED WIRE COMPANY; HOWARD JACKSON;
SAM KIMBALL,

Defendants - Appellees.

Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Henry C. Morgan, Jr., District Judge. (CA-96-1247-2)

Submitted: May 14, 1998 Decided: May 21, 1998

Before WIDENER and MICHAEL, Circuit Judges, and BUTZNER, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

Luther Cornelius Edmonds, Virginia Beach, Virginia, for Appellant. James P. Naughton, Sharon S. Goodwyn, HUNTON & WILLIAMS, Norfolk, Virginia; Thomas G. Servodidio, DUANE, MORRIS & HECKSCHER, Philadelphia, Pennsylvania, for Appellees.

PER CURIAM:

Gerod Stukes appeals the district court's order granting summary judgment to the Defendants in his suit alleging constructive discharge, disparate discipline, and unlawful denial of promotion in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-2 (1994). On appeal, Stukes challenges only the district court's disposition of his claims of discriminatory denial of promotion. Finding no error, we affirm.

Stukes claims that he was discriminatorily denied a promotion on sixteen occasions. We find that eight of the instances of alleged discrimination are barred from consideration because Stukes failed to file a charge with the Equal Employment Opportunity Commission ("EEOC") within 300 days of the discriminatory conduct. See 42 U.S.C. § 2000e-5(e)(1) (1994). Three of the allegations of discriminatory denial of promotion are meritless because Stukes was no longer an employee when these positions were filled. Finally, we find Stukes's remaining claims of discriminatory failure to promote meritless because Stukes failed to rebut Defendants' legitimate, non-discriminatory reasons for not promoting him, which included unacceptable attendance ratings and multiple disciplinary warnings. See Alvarado v. Board of Trustees, 928 F.2d 118, 121 (4th Cir. 1991). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED